

REMARKS

This amendment is submitted with a request for one month extension and appropriate fee in reply to the Office Action dated June 23, 2006. Claims 1, 2 and 5-14 currently stand rejected. Independent claim 1 has been amended to more particularly distinguish the claimed invention from the cited references. Dependent claims 7, 11 and 12 have been amended to place the claims in better form. Newly added claims 23-29 have been added to further define patentable aspects of the invention. No new matter has been added by the amendment.

In light of the amendments and the remarks presented below, Applicant respectfully requests reconsideration and allowance of all now-pending claims of the present application.

Claim Rejections - 35 USC §103

Claims 1, 5-8, 10 and 12-14 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Kawanaka (U.S. Patent No. 6,351,763) in view of Gerszberg et al. (U.S. Patent No. 6,385,305, hereinafter "Gerszberg"). Claims 2, 9 and 11 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Kawanaka and Gerszberg and further in view of Jennings (U.S. Patent No. 5,781,186).

Independent claim 1 has been amended to recite, *inter alia*, **selecting location conditions under which the message may be opened by a device of a recipient**. It is respectfully submitted that none of the cited references, taken either individually or in combination, teach or suggest the above-listed features.

Kawanaka relates to an electronic mail system in which a terminal on the transmission side may attach a designated date to an electronic mail indicating when the electronic mail may be opened by a recipient. In this regard, Kawanaka discloses that when the intended recipient attempts to open the electronic mail, the electronic mail is opened if the date of the attempt is equal to the designated date of opening or deleted if the date of the attempt is different from the designated date. To the contrary, the claimed invention is directed to selecting location conditions under which a message may be opened by a device of a recipient. Meanwhile, Kawanaka relates only to on which date a message may be opened and appears to be

unconcerned with the location of the recipient. In fact, Kawanaka appears to be principally concerned with static computer terminals for which the location of the recipient is not likely to change. Accordingly, Kawanaka fails to teach or suggest selecting location conditions under which the message may be opened by a device of a recipient as recited in independent claim 1.

Gerszberg is directed to a video phone multimedia announcement message toolkit. Gerszberg discloses that certain conditions such as time, date or caller can be set and used to determine when or how certain information is displayed. However, Gerszberg does not appear to be concerned with setting conditions for the opening of a message. Furthermore, Gerszberg is also unconcerned with location conditions as they pertain to providing conditions under which a message may be opened. Accordingly, Gerszberg also fails to teach or suggest selecting location conditions under which the message may be opened by a device of a recipient as recited in independent claim 1.

Jennings is directed to an arrangement for specifying presentation of multimedia message components. However, Jennings also fails to teach or suggest selecting location conditions under which the message may be opened by a device of a recipient as recited in independent claim 1 and is not cited as such.

Since Kawanaka, Gerszberg and Jennings each fail to teach or suggest selecting location conditions under which the message may be opened by a device of a recipient as recited in independent claim 1, any combination of the cited references likewise fails to render independent claim 1 obvious for at least the same reasons described above. Claims 2 and 5-14 depend either directly or indirectly from independent claim 1, and thus include all the recitations of independent claim 1. Therefore, dependent claims 2 and 5-14 are patentable for at least those reasons given above for independent claim 1.

Accordingly, for all the reasons stated above, Applicant respectfully submits that the rejections of claims 1, 2 and 5-14 are overcome.

Newly Added Claims

Applicant has added new claims 23-29 to more particularly define aspects of the present

Appl. No.: 09/742,190
Amdt. dated 10/23/2006
Reply to Office action of 06/23/2006

application. The new claims include no new matter and are fully supported by the specification and the drawings of the present application.

Accordingly, it is believed that the new claims are in condition for allowance.

CONCLUSION

In view of the amendment and remarks submitted above, it is respectfully submitted that the present claims are in condition for immediate allowance. It is therefore respectfully requested that a Notice of Allowance be issued. The Examiner is encouraged to contact Applicant's undersigned attorney to resolve any remaining issues in order to expedite examination of the present invention.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



Chad L. Thorson
Registration No. 55,675

Customer No. 00826
ALSTON & BIRD LLP
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000
Tel Charlotte Office (704) 444-1000
Fax Charlotte Office (704) 444-1111

ELECTRONICALLY FILED USING THE EFS-WEB ELECTRONIC FILING SYSTEM OF THE UNITED STATES PATENT & TRADEMARK OFFICE ON October 23, 2006 by Gwen Frickhoeffer.